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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/531,880	04/19/2005	Trevor Burke	078986-0218	4529
23392	7590	07/10/2008		
FOLEY & LARDNER			EXAMINER	
2029 CENTURY PARK EAST			SHULEHEDA, JAMES R	
SUITE 3500				
LOS ANGELES, CA 90067			ART UNIT	PAPER NUMBER
			2623	
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			07/10/2008	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>		<b>Application No.</b>	<b>Applicant(s)</b>
10/531,880		BURKE, TREVOR	
<b>Examiner</b>	<b>Art Unit</b>		
JAMES SHELEHEDA	2623		

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If no period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### **Status**

1) Responsive to communication(s) filed on 04 June 2008.  
 2a) This action is FINAL.      2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### **Disposition of Claims**

4) Claim(s) 1-7 and 9-29 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-7 and 9-29 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### **Application Papers**

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### **Priority under 35 U.S.C. § 119**

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### **Attachment(s)**

1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO/0256/06)  
 Paper No(s)/Mail Date \_\_\_\_\_

4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date. \_\_\_\_\_

5) Notice of Informal Patent Application

6) Other: \_\_\_\_\_

**DETAILED ACTION**

***Response to Arguments***

1. Applicant's arguments filed 06/04/08 have been fully considered but they are not persuasive.

On pages 7-8, applicant argues that Burke fails to disclose a plurality of subsets of event classes.

In response, Burke discloses wherein a plurality of classes are available, and wherein *subsets* of the classes may be selected for use with a program (page 4, lines 7-21 and page 11, lines 1-8).

This is seen in the fact that out of the total number of classes available, only some subset of the classes will be assigned to any one program. Thus, a football game would not get flagged as "soccer", as the classification is performed based upon the content of the program (page 11, lines 1-8). Thus, applicant's arguments are not convincing, as the event classes are made up of a plurality of "subsets", as only subsets of the classes would be utilized with each program, depending on that programs content. This clearly meets the current broad claim requirements regards a subset.

Furthermore, it is noted that Burke explicitly discloses examples of these types of subsets. For a sporting event, numerous classes of events related to sports are possible (see Page 11, line 22-page 12, line 25). As indicated by Burke, these classes could include "Kick off", "yellow card", "shot on goal" and other major events of the sports program. As can plainly be seen, a "shot on goal" related to sports programming

would not be applicable to non-sporting sitcom or drama programming. Thus, these classes are clearly a class subset, as they are only pertinent for a particular type of program. Therefore, applicant's arguments are not convincing.

On pages 8-9, applicant argues that Burke fails to disclose wherein selection from a subset determines the subsets from which future selections can be made.

In response, Burke discloses wherein a plurality of classes are available, and wherein *subsets* of the classes may be selected for use with a program (page 4, lines 7-21 and page 11, lines 1-8). Burke further discloses wherein the selected classes may consist of subsets which are only appropriate for particular types of programs (see Page 11, line 22-page 12, line 25).

Thus, the received programming has been classified based upon selections made by the classification operator.

Therefore, future selections to navigate the content are limited to the previous selections made by the classifier. This can be seen in Fig. 7 of Burke. Icons representing the assigned classes are displayed, and the user may select from these icons for different desired classes (page 11, lines 9-21). Applicant's arguments are not convincing, as the basic operation of Burke's system clearly provides for the selection of a subset to determine the subset for future selections, as required by the claims.

In response to applicant's arguments regarding new claims 27-29, it is noted that Burke explicitly discloses wherein the classifier of the program may also be the home

user and wherein the classification is performed on programming received at the user terminal (page 16, lines 14-28). Therefore, applicant's arguments are not convincing.

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-7 and 9-26 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Burke (WO 99/03275 A1) (of record).

As to claims 1, 14, 15 and 16, Burke discloses a method for generating a programme for presentation to a user such that the presented programme is made up from a sequence of programme elements (page 3, lines 19-21) each of which is a programme clip taken from at least one distributed programme and each of which represents an event (page 3, line 29-page 4, line 6), each programme element being classified on the basis of the event represented by the programme element (page 3, line 29-page 4, line 6), each programme element being stored with at least one associated programme element classification code (page 3, lines 21-25), each classification code identifying a class to which the event represented by the associated programme element has been allocated (page 3, lines 21-25), and a programme being assembled for presentation to the user by selecting at least one programme classification code and generating an assembled programme in the form of a sequence of programme

elements associated with the at least one programme classification code (page 3, lines 25-28), wherein programme elements are classified using a set of event classes including a plurality of subsets of the event classes (page 4, lines 7-21), classification of each programme element comprises receiving from a classification operator at least one selection from at least one of the subsets (page 4, lines 7-21 and page 11, lines 1-8), said selection determining at least one of the subsets from which future selections can be made (page 4, lines 7-21), and the at least one selection generating the classification code associated with the programme element (page 4, lines 7-21 and page 11, lines 1-8).

As to claims 2 and 17, Burke discloses wherein a plurality of programme elements representing temporally adjacent events are classified by the classification operator (page 11, lines 1-8 and page 16, line 29-page 17, line 9), and classifications of temporally earlier events determine the at least one subset of event classes from which the classification operator may make selections (page 4, lines 7-21, page 11, lines 1-8 and page 16, line 29-page 17, line 9).

As to claims 3 and 18, Burke discloses wherein the set of event classes contains classes having hierarchical relationships (page 4, lines 1-21), and the subsets from which future selections can be made are determined by the hierarchical relationships (page 4, lines 1-21 and page 4, line 26-page 5, line 4).

As to claims 4 and 19, Burke discloses wherein the at least one subset from which selections can be made is symbolically displayed to the classification operator (page 4, lines 7-21 and page 17, lines 10-23).

As to claims 5 and 20, Burke discloses wherein each of said event classes has an associated icon (page 4, lines 7-21 and page 17, lines 10-23).

As to claims 6 and 21, Burke discloses wherein selection of an event class comprises selection of an icon (page 4, lines 7-21 and page 17, lines 10-23).

As to claims 7 and 22, Burke discloses wherein each of the said icons is a symbolic representation of events associated with a respective event class (Figs. 7-8; page 11, line 22-page 12, line 8)

As to claims 9 and 24, Burke discloses operator selection of a subjective assessment of programme element value (page 11, lines 1-8).

As to claims 10 and 23, Burke discloses selecting of a set of classes from a predetermined plurality of sets of classes (page 4, lines 7-21).

As to claim 11, Burke discloses user selection of a latency value associated with said user selection (page 17, lines 1-9).

As to claims 12 and 25, Burke discloses a compute readable storage medium storing a computer programme that when executed on a computer carries out the method of claims 1 and 14 (see Figs. 1-2; page 6, line 25-page 7, line 12 and the rejection of claims 1 and 14 above).

As to claim 13, Burke discloses a carrier medium carrying computer readable program code configured to cause a computer to carry out the method of claim 1 (see Figs. 1-2; page 6, line 25-page 7, line 12 and the rejection of claim 1 above).

As to claim 26, Burke discloses a carry medium carrying computer readable program code configured to cause a computer to carry out the method of claim 14 (see Figs. 1-2; page 6, line 25-page 7, line 12 and the rejection of claim 14 above).

As to claim 27, Burke discloses wherein the classification of each of the programme elements comprises receiving data indicating selection from at least one of the subsets (page 4, lines 7-21 and page 11, lines 1-8), wherein the classification is performed by the classification operator after the data is received indicating selection from at least one of the subsets (page 11, lines 1-8 and page 11, line 22-page 12, line 6).

As to claim 28, Burke discloses wherein the user is the classification operator (page 16, lines 14-28).

As to claim 29, Burke discloses wherein the classification is performed by a user after the data is received indicating selection from at least one of the subsets (page 11, lines 1-8 and page 11, line 22-page 12, line 6).

***Conclusion***

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

5. The following are suggested formats for either a Certificate of Mailing or Certificate of Transmission under 37 CFR 1.8(a). The certification may be included with all correspondence concerning this application or proceeding to establish a date of mailing or transmission under 37 CFR 1.8(a). Proper use of this procedure will result in such communication being considered as timely if the established date is within the required period for reply. The Certificate should be signed by the individual actually depositing or transmitting the correspondence or by an individual who, upon information

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### **Certificate of Mailing**

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to:

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### **Certificate of Transmission**

I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office, Fax No. ( ) \_\_\_\_ - \_\_\_\_ on \_\_\_\_\_.  
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Registration Number: \_\_\_\_\_

Please refer to 37 CFR 1.6(d) and 1.8(a)(2) for filing limitations concerning facsimile transmissions and mailing, respectively.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to JAMES SHELEHEDA whose telephone number is

(571)272-7357. The examiner can normally be reached on Monday - Friday, 9:00AM - 5:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Kelley can be reached on (571) 272-7331. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

James Shelehed  
Examiner, Art Unit 2623

JS

/Chris Kelley/  
Supervisory Patent Examiner, Art Unit 2623